

BOARD OF APPEALS CASE NO. 5558

*

BEFORE THE

APPLICANTS: Conits & Edwards LLC and
Freedom Federal Credit Union

*

ZONING HEARING EXAMINER

REQUEST: Variance to allow an internally
illuminated free-standing commercial sign within
the required setback in the RO District

*

OF HARFORD COUNTY

*

HEARING DATE: February 21, 2007

*

* * * * *

ZONING HEARING EXAMINER'S DECISION

The Applicants, Contis & Edwards, LLC and Freedom Federal Credit Union, are seeking a variance, pursuant to Section 219-5(B) of the Harford County Code, to allow a free-standing commercial sign within the required setback (1 foot proposed), and a variance, pursuant to Section 219-13(B), to allow an internally illuminated commercial sign in the RO (Residential Office) District.

The subject property is located at 1304 Churchville Road, Bel Air, Maryland 21015 in the Third Election District, and is more particularly identified on Tax Map 41, Grid 4D, Parcel 429, Lot 1. The parcel consists of approximately 33,399 square feet.

Mr. Paul Linz, Chief Operating Officer at Freedom Federal Credit Union, appeared and testified that the subject property is owned by the Applicant, Contis & Edwards, LLC, which leases it to the Credit Union. He referred to the subject site as the area highlighted in yellow on the aerial photograph introduced as Applicant's Exhibit 12. Improvements to the property consist of a banking building, a two lane drive up ATM accessible from MD Route 22, and parking areas in the front, and to the right of the building.

According to the witness the property adjoins more intensely zoned commercial uses, including a 7-11 to the west and a large shopping center to the south. Mr. Linz described several properties located between Moores Mills Road and MD Route 543 and on the north side of MD Route 22 which are also depicted on Applicant's Exhibit 12. Parcel No. 1 is a 7-11 store, Parcel No. 4 is a Pizza Hut restaurant, and Parcel Nos. 3, 5, 6 & 7 comprise the Brierhill Shopping Center. The properties to the east of the subject site contain the commercial business known as Oaks Vacuum and some residential office buildings.

Case No. 5558 – Conits & Edwards, LLC and Freedom Federal Credit Union

Mr. Linz noted that the Applicants are requesting only a sign variance, and have not asked for rezoning of the subject parcel. He referenced photographs included in Applicant's Exhibit 13, describing them as depicting other commercial signs in the vicinity of the subject parcel. Also included in that Exhibit is a photograph of the existing sign for Freedom Federal Credit Union. The witness described that sign as overgrown and not clearly visible to traffic approaching the property eastbound from Aberdeen. The sign is also pictured in Staff Report Attachment 8. Mr. Linz indicated that the Applicant proposes to build a 6 foot by 3 foot plexiglass sign constructed of brushed aluminum to match the existing commercial building. After completion of the proposed sign, the existing sign located on the adjacent 7-11 entrance pylon, would be removed to eliminate clutter.

According to Mr. Linz, the subject parcel is unique because all other RO zoned properties in the area are converted dwellings utilized as office space. The subject property on the other hand, was originally developed and constructed as a modern commercial bank building. The witness further testified that the Applicant requested commercial zoning of the subject property during the 2005 comprehensive rezoning for the sole purpose of being allowed to construct a commercial sign. The request was denied due to concern that rezoning would lead to further extension of commercial zoning into the RO district to the east of the subject property. Finally the witness testified that in his opinion, the requested variance would not result in any adverse impact to adjacent properties.

Mr. Rowan Glidden, a qualified expert land planner, appeared and testified on behalf of the Applicants. Mr. Glidden stated that he is the Director of Land Planning & Landscape Architecture for G. W. Stephens, Jr. & Associates, Inc. The witness stated that although the subject property is zoned RO, it was developed for use as a credit union rather than the more traditional conversion RO of an existing dwelling into office space. He indicated that his firm had prepared the site plan, and done the engineering for the Freedom Federal Credit Union site. The property fronts on Maryland Route 22, and is only 200 feet deep, making it a relatively short site.

According to the witness there is a residential subdivision to the rear of the subject property, buffered by a fairly large Natural Resources District. To the east, there are several dwellings presently being converted for office use. There are retail uses, including a 7-11, to the west, and there is an office building located at the intersection of Moors Mill Road and MD Route 22 designated as parcel number 4 on Applicant's Exhibit 12. The properties on the opposite side of the street from the subject site are all zoned commercial. The parcel marked number two on Applicants Exhibit 12 is a martial arts center.

Case No. 5558 – Conits & Edwards, LLC and Freedom Federal Credit Union

Numbers 3-7 on that exhibit comprise a shopping center consisting of an Applebees Restaurant, a gasoline service area, a bank and a gas station.

The witness concurred with Mr. Linz that the existing sign fails to provide adequate direction for approaching traffic. He stated that MD Route 22 is a divided highway, with a center median in front of the subject site, allowing only right in, right out access to the property from that road. In addition, the road has a 40 mph speed limit and a moderately heavy traffic flow, making the existing sign even harder to see.

According to the witness, all of the freestanding signs pictured on Applicant's Exhibit 13 are constructed on commercially zoned properties. The subject property is zoned RO. Freestanding signs are permitted in the RO District, but they are limited to a maximum size of 8 square feet. However, Mr. Glidden indicated that in his opinion, the subject property is more akin to the surrounding commercial uses than to the RO uses further to the east along MD Route 22. He also indicated that while RO signage requirements are appropriate for residential office use they are not appropriate for the subject site which contains a much more intense use.

Mr. Glidden stated that the proposed sign would be the same size as the existing sign now located on the 7-11 entrance pylon, but will be closer to the credit union building, so as to provide adequate direction to approaching traffic. He also testified that the proposed 1 foot setback is necessary in this case because the subject property was developed after, but in conjunction with the 7-11 site to allow access to Moors Mill Road from both sites. This leaves only a 10 foot area on which to construct a sign in front of the building. Further, there is no other suitable location on the subject site for placement of a sign.

According to Mr. Glidden, the proposed sign is designed to be compatible with both the architecture of the Freedom Federal Credit Union building and with other signs in the area. It would compliment the architectural elements of the existing commercial building, as it would be constructed of brushed aluminum and would share a similar modern design. The witness therefore opined that the proposed sign would cause no adverse impact on surrounding properties.

Mr. Glidden stated that the subject property was developed for intensive, as opposed to typical RO type use, and that it shares a common entrance with the adjoining 7-11 property. There are no other B1/RO zoned properties which share a common entrance in the vicinity of the subject property.

Case No. 5558 – Conits & Edwards, LLC and Freedom Federal Credit Union

The subject site is less than 200 feet deep at the rear property line. He indicated that for banking uses he typically looks for parcels which are an additional 50-100 feet deep. He did indicate that the 200 foot depth is fairly consistent across the surrounding area. However, the 7-11 site is distinguished by being considerably wider, and facing Moores Mill Road.

The witness further testified that denial of the subject application would result in practical difficulty for the Applicants because existing customers cannot find the entrance, and new customers can not find the bank. He stated that the present location of the sign after the entrance is not ideal because westbound traffic has to pass the use before encountering the sign. He indicated that not only would properly placed signage help customers find the property, it would also improve the flow of traffic on MD Route 22.

Finally, Mr. Glidden testified that in his opinion, none of the Limitations Guidelines and Standards set forth in Harford County Code Section 267-9I would have any impact on the granting of the proposed variance.

Mr. Anthony McClune, Deputy Director, Department of Planning and Zoning, appeared and testified on behalf of the Department regarding the findings of fact and recommendations made by that agency. Mr. McClune stated that the Department reviewed the request and visited the subject property and surrounding neighborhood in connection with its investigation. The Department recommended denial of the request in it's January 22, 2007 Staff Report.

Although he acknowledged that the Applicants accurately described the subject property, the witness indicated that the Department did not find the subject property unique because the parcel is square in shape and the topography is mostly level. He indicated that the Department had considered the existing building in addition to the lot itself, but did not elaborate on its findings in that regard. The Staff Report states that the existing use is clearly visible to approaching vehicles and there is currently a sign that meets Code requirements located on the property. However, no facts or testimony were offered concerning that statement. Mr. McClune agreed with Mr. Glidden that the subject variance, if granted, should not have any adverse impact on adjoining properties pursuant to the factors set forth in Harford County Code Section 267-9I.

Case No. 5558 – Conits & Edwards, LLC and Freedom Federal Credit Union

On cross-examination, Mr. McClune stated that the Freedom Federal Credit is a permitted use in the RO District, but acknowledged that it is more intense than other RO uses in the area of the subject property. He also acknowledged that this is the only RO property in the vicinity which shares a common entrance with a commercial use on a B1 zoned parcel. He indicated that the photographs introduced as Applicant's Exhibits 12 & 13 are accurate depictions of commercial properties in the immediate area of the subject property.

Mr. McClune agreed with Mr. Glidden's characterization of Md. Rt. 22 as a four lane arterial road with a center median and significant traffic. He also agreed that locating a sign after a business use is not an optimal situation. The witness further stated that the Department is not aware of any objections to the requested variances.

No witnesses appeared in opposition to the subject request.

CONCLUSION:

The Applicant is seeking a variance pursuant to Section 219-5B of the Harford County Code to allow a free-standing commercial sign within the required setback (1 foot proposed) and a variance pursuant to Section 219-13(B) of the Harford County Code to allow an internally illuminated commercial sign in the RO District.

Section 219-5(B) of the Harford County Sign Code provides:

area road “Freestanding signs. A freestanding sign shall include any sign supported by uprights or braces placed upon the ground and not attached to any building. Business signs may be freestanding if the property has a minimum of forty (40) feet of road frontage. The sign shall be calculated on the basis of one (1) square foot of sign for every foot of property frontage. However, the maximum area of any freestanding sign shall not exceed two hundred (200) square feet. The setback measured to the edge of the sign shall be equal to one-third (1/3) of the required building setback. Unless otherwise provided herein, the maximum height allowed for any freestanding sign is thirty-five (35) feet above the nearest public road grade.”

Case No. 5558 – Conits & Edwards, LLC and Freedom Federal Credit Union

Section 219-13(B) of the Harford County Sign Code provides:

“Residential/Office district (RO).

- (1) The following signs shall be allowed:
 - (a) One freestanding sign per parcel, which shall have a maximum of eight (8) square feet in area, shall be no more than six feet in height and shall be placed perpendicular to the road; and
 - (b) A wall sign for each use, which shall be attached only to the front of a building, shall be adjacent to the front entryway and shall be no larger than four (4) square feet in area.
- (2) Freestanding and wall signs shall be constructed of wood, brass or bronze shall not be internally illuminated. Both freestanding and wall signs may be externally illuminated.
- (3) Signs shall be constructed in an unobtrusive manner which compliments the architectural element of the building and reflects the architectural period of the building.
- (4) Temporary signs shall be prohibited in the RO District.

and

Section 219-17 of the Harford County Code provides:

"The Board may grant a variance from the provisions of this chapter if, by reason of the configuration or irregular shape of the lot or by reason of topographic conditions or other exceptional circumstances unique to the lot or building, practical difficulty or unnecessary hardship results. The Board shall, before granting the variance, make a written finding as part of the record that the conditions or circumstances described are unique to the lot or building, that the conditions or circumstances cause the difficulty or hardship and that the variance can be granted without impairment of the purpose and provisions of this chapter."

The Hearing Examiner finds, based upon the testimony of Mr. Linz, Mr. Glidden and Mr. McClune, that there are exceptional circumstances unique to the lot and building in the subject case.

Case No. 5558 – Conits & Edwards, LLC and Freedom Federal Credit Union

Although the lot itself is not irregularly shaped or unique from a topographical standpoint, the subject parcel shares a single common entrance with a B1 parcel. The undisputed testimony indicated that the subject property is the only RO zoned parcel in the vicinity sharing a common entrance with a commercial use in a B1 District. The building is also unique, in that it is developed in a manner different from those found on other RO parcels in the area. Those parcels contain residential dwelling units converted to office use, while the credit union building was originally developed as a commercial style bank building. In addition, the Hearing Examiner accepts Mr. McClune's testimony on cross-examination that the Freedom Federal Credit Union is a permitted use on the subject property in an RO District, but the use itself is more intense than that found on other RO parcels currently found to the east of the subject property.

The Hearing Examiner finds that the exceptional circumstances unique to the lot and building in this case result in practical difficulty to the Applicant. The existing sign for the Freedom Federal Credit Union is placed after the use, and therefore does not provide adequate direction for approaching traffic and existing or potential customers. Therefore, existing customers have difficulty finding the property, and new customers can not find the bank. The Staff Report did state that the existing use is clearly visible to approaching vehicles and there is currently a sign that meets Code requirements located on the property. However, no explanation or testimony was introduced in support of that statement. Conversely, both Mr. Glidden and Mr. McClune testified that the present location of the sign after the entrance to the establishment is not an ideal situation because westbound traffic has to pass the use before encountering the sign.

MD Route 22 is a divided highway, with a 40 mph speed limit and a moderately heavy traffic level at the location of the subject property. Access to Freedom Federal Credit Union is right in and right out only from that road due to the presence of a center median in front of the property. If customers pass the Credit Union due to the placement of the sign after the use, they have to circumnavigate the block in order to come back up MD Route 22 heading toward the subject property. Proper placement of signage would not only help customers find the property, but would also help the flow of traffic on MD Route 22. In addition, there is no other suitable location on the subject site for placement of a sign. The proposed 1 foot setback is necessary because the subject property was developed after, but in conjunction with the 7-11 site to allow access to Moores Mill Road from both sites, leaving only a 10 foot area to construct a sign.

Case No. 5558 – Conits & Edwards, LLC and Freedom Federal Credit Union

The Hearing Examiner finds that the granting of the requested variance will have no adverse impact on adjoining properties and that the requested variance can be granted without impairment of the purpose and provisions of either the Harford County Zoning Code, or the Harford County Sign Code.

The proposed sign is designed to compliment the architectural elements of the existing Credit Union building and to be compatible with other signs in the area of the subject property. It would be constructed of brushed aluminum and be modern in design, as is the building. The proposed sign will also be the same size as the existing sign now located on the 7-11 entrance pylon. However, it will be close enough to the credit union building to provide adequate direction to approaching traffic. In addition, if the requested variance is granted, the sign contained on the 7-11 sign and the other entrance sign to the parcel would be removed in order to eliminate clutter.

The Hearing Examiner accepts the undisputed testimony of Mr. Glidden and the Department of Planning and Zoning that the proposed valances would have no adverse impact on adjoining properties based on the limitations guidelines and standards set forth in Harford County Code Section 267-9I.

For the reasons set forth above, the Hearing Examiner recommends approval of the requested variances, subject to the Applicant obtaining all necessary permits and inspections.

Date JUNE 26, 2007

Rebecca A. Bryant
Zoning Hearing Examiner

Any appeal of this decision must be received by 5:00 p.m. on JULY 25, 2007.